IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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WRIT PETITION Nos. 24772 of 2004 to 24779 of 2004

& 24246 of 2004

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1) WRIT PETITION NO : 24772 of 2004

Between:

The Depot Manager, APSRTC, Hindupur, Anantapur District.

..... PETITIONER

AND

1 The Chairman, Industrial Tribunal Cum-Presiding Officer, Labour Court, Ananthapur.
2 D. Ranga Reddy, S/o. Lakshminarayana Reddy, Devakuntapall (V), Nallacheruvu (M), Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly in the nature of writ of certiorari calling for the records relating to the award dated 19-6-2004 in I.D.No.116 of 2002 by the Labour Court, Anantapur and quash the same.

Counsel for the Petitioner: MR.R.MANMADHA REDDY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: Smt. Chaya Devi & Smt. Shanti Neelam

2) WRIT PETITION NO : 24773 of 2004

Between:

The Depot Manager, APSRTC, Kalayandurg Depot.

..... PETITIONER

AND

1 The Chairman, Industrial Tribunal-cum-Presiding Officer, Labour Corut, Anantapur.
2 C. Narasimhulu, E.No. 575057, Casual Driver,
Nidimarri Village, Tadimarri Mandal, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly in the nature of writ of certiorari calling for the records relating to the award dated 19-6-2004 in I.D.No.13 of 2003 by the Labour Court, Anantapur and quash the same.

Counsel for the Petitioner: MR.R.MANMADHA REDDY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: Smt. Chaya Devi & Smt. Shanti Neelam

3) WRIT PETITION NO : 24774 of 2004

Between:

The Depot Manager, APSRTC, Hindupur, Ananthapur District.
..... PETITIONER

AND

1 The Chairman, Industrial Tribunal cum Presiding Officer, Labour Court, Anantapur District.

2 A. Muralikrishna, S/o. a. Lokaiah, E.No. 575276, Casual Driver, 5-188-3, Flower Street, Kadiri, Anantapur District. … Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly in the nature of writ of certiorari calling for the records relating to the award dated 19-6-2004 in I.D.No. 141 of 2002 by the Labour Court, Anantapur and quash the same.

Counsel for the Petitioner:MR.R.MANMADHA REDDY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: Smt. Chaya Devi & Smt. Shanti Neelam

4)WRIT PETITION NO : 24775 of 2004

Between:

The Depot Manager, APSRTC, Rayadurg, Ananthapur District.

..... PETITIONER

AND

1 The Chairman, Industrial Tribunal-cum-Presiding Officer, Labour Court, Anantapur.
2 P.J.Khan, s/o Rahamthulla Khan, E.No.575035, Casual Driver, D.No.9/93-4A-B1, Near Nana Darga, Kadiri, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly in the nature of writ of certiorari calling for the records relating to the award dated 19-6-2004 in I.D.No.111 of 2002 by the Labour Court, Anantapur and quash the same.

Counsel for the Petitioner:MR.R.MANMADHA REDDY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: Smt. Chaya Devi & Smt. Shanti Neelam

5)WRIT PETITION NO : 24776 of 2004

Between:

The Depot Manager, APSRTC, Rayadurg, Ananthapur District. … Petitioner

AND

1 The Chairman, Industrial Tribunal-cum-Presiding Officer, Labour Court, Anantapur.
2 C. Chinna Reddy, s/o Hussain Sab, D.No. 4/38C, Tupalli (Village), Gandlapenta (M), Ananthapur District. … Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly in the nature of writ of certiorari calling for the records relating to the award dated 19-6-2004 in I.D.No.110 of 2002 by the Labour Court, Anantapur and quash the same.

Counsel for the Petitioner:MR.R.MANMADHA REDDY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: Smt. Chaya Devi & Smt. Shanti Neelam

6)WRIT PETITION NO : 24777 of 2004

Between:

The Depot Manager, APSRTC, Kadri, Anantapur District. … Petitioner

AND

1 The Chairman Industrial Tribunal-cum-Presiding Officer, Labour Court, Anantapur.
2 B. Byri Reddy, E.No. 575662, Casual Driver,
D.No. 3-310-19 F, Gollamma Mandapam, Kadiri, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly in the nature of writ of certiorari calling for the records relating to the award dt. 19.6.2004 in I.D.No. 142 of 2002 by the Labour Court, Anantapur and quash the same.

Counsel for the Petitioner:MR.R.MANMADHA REDDY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: Smt. Chaya Devi & Smt. Shanti Neelam

7) WRIT PETITION NO : 24778 of 2004

Between:

The Depot Manager, APSRTC, Kadiri, Anantapur District …. Petitioner

AND

1 The Chairman, Industrial Tribunal-cum- Presiding Officer, Labour Court, Anantapur
2 P. Allabakash, E. No. 575534, Casual Driver
R/o Katakvaripalli Vlg. and Post Garladinne Mandal, Anantapur District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly in the nature of Writ of certiorari calling for the records relating to the award dated 19-6-2004 in I.D. No. 109 of 2002 by the

Labour Court, Anantapur and quash the same.

Counsel for the Petitioner:MR.R.MANMADHA REDDY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: Smt. Chaya Devi & Smt. Shanti Neelam

8)WRIT PETITION NO : 24779 of 2004

Between:

The Depot Manager, APSRTC, Kadiri, Ananthapur District. … Petitioner

AND

1 The Chairman, Industrial Tribunal-cum-Presiding Officer, Labour Court, Anantapur.
2 M.V.Ramana, E.NO.575664, C/o Sri J.Narayana Swamy, Advocate, D.No.8/264, Gulzarpet, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly in the nature of writ of certiorari calling for the records relating to the award dated 19-6-2004 in I.D.No.140 of 2002 by the Labour Court, Anantapur and quash the same.

Counsel for the Petitioner:MR.R.MANMADHA REDDY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: Smt. Chaya Devi & Smt. Shanti Neelam

9)WRIT PETITION NO : 24246 of 2004

Between:

The Depot Manager, APSRTC Hindupur, Anantapur Dist. … Petitioner

AND

1 The Chairman, Industrial Tribunal cum Presiding Officer
Anantapur Dist.
2 S.V.Narayana S/o.S.Venkataramana, E.No. 575499, Casual Driver, Ratnlapalli (Village), Nallacheruvu (M),Kadiri, Anantapur Dist.
… Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or Direction more particularly in the nature of Writ of certiorari calling for the records relating to the award dt 19-6-2004 in ID No.106/2002 by the Labour Court, Anantapur and quash the same.

Counsel for the Petitioner:MR.R.MANMADHA REDDY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: Smt. Chaya Devi & Smt. Shanti Neelam

The Court made the following :

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

WRIT PETITION Nos. 24772 of 2004 to 24779 of 2004
and 24246 of 2004

COMMON ORDER:

Heard Sri R.Manmadha Reddy, learned standing counsel appearing on behalf of the petitioner-corporation and Smt. Chaya Devi and Smt. Shanthi Neelam, learned counsel appearing on behalf of the contesting respondents.

Since common question arises in all these matters, they are being taken up together for disposal.

The petitioners in all these Writ Petitions filed this Writ Petition, *inter alia,* seeking for a Writ of Certiorari, challenging the common award of the first respondent herein dated 19.06.2004 in favour of the respective second respondent in each of the cases in pursuance of a reference of a dispute under Section 2(A) (2) of the Industrial Disputes Act, 1947.

The facts not in dispute are that the contesting second respondent in these Writ Petitions were selected and appointed as casual drivers. The conditions of selection contemplate possessing at least 3 years'

of experience with a valid driving licence prior to date of appointment. The case of the petitioner is that subsequent to the selection made and after verification with the concerned licencing authorities, it was found that the driving licences which have been produced by them were not genuine. Though they sought to produce fresh driving licences, however, since they do not possess the minimum 3 years' of experience prior to appointment with a valid driving licence, the very appointment is not valid. Therefore, the petitioner had initiated disciplinary action against all these contesting respondents by issuing separate charge sheets. In the explanation filed, the contesting respondents denied the entire allegations. However, ultimately, the contesting respondents were removed from service whereupon the matter was referred to the first respondent herein.

During the course of enquiry, which was taken up as common for all the references in all the I.Ds., no evidence was produced from either side and ultimately, on the basis of the allegations and counter allegations made, and by taking into consideration the respective submissions from both sides, the first respondent allowed the claims of the contesting respondents with a direction to appoint them as Drivers afresh. It is also directed that the conditions contemplated under the Circular dated 31.08.2000 issued by the petitioner also be kept in view. Further, it is pointed out that in case if any of the contesting respondents have not furnished the genuine driving licences, they were given an opportunity to submit the same within a period of one month from the date of publication of the award and the service rendered earlier to the date of removal was also be taken into account. Hence, the Writ Petitions.

The learned standing counsel appearing on behalf of the petitioner-corporation in all the Writ Petitions strenuously contends that admittedly the driving licences which have been produced by contesting respondents in all these cases were found to be not

genuine and further they were not possessing minimum experience with a valid driving licence prior to the date of appointment and therefore, as contemplated under its own Circular dated 31.08.2000, no relief as such would have been granted by the first respondent herein in the dispute referred. Further, there is also no justification to waive such condition.

Smt Chayadevi and Smt. Shanti Neelam, learned counsel appearing on behalf of the contesting respondents, strenuously opposed the aforesaid submissions stating that having regard to the facts and circumstances and especially the discretion as exercised by the first respondent and the directions given thereunder, there are no warranting grounds for interference by this Court under Article 226 of the Constitution of India. Further, it is also pointed out that, in fact, the contesting respondents were possessing genuine licences even on the date of appointment and the mistake, if any, can not be put against them for denial of the service especially when they have put in nreminished record of service all along.

Considering the submissions made and on perusal of the material, the only question which arises for consideration in these matters is as to whether on the facts and circumstances, the impugned common award in directing the consideration of the cases of the contesting respondents for appointment afresh on possessing valid driving licences, is valid ?

There is no dispute to the fact that all the contesting respondents were duly appointed, though as casual drivers, on the basis of the driving licences, which have been produced by them and they have been in service all along. Admittedly, there is no complaint of whatsoever nature against any of them. It is only when the petitioner has found after verification from the concerned licencing authorities that the driving licences produced by them are not genuine,

disciplinary action was initiated against them by due process by issuing charge sheet and obtaining explanation and ultimately having found that they do not possession neither genuine driving licences nor the required 3 years' experience as such, they were removed from service. During the course of enquiry, it is curious to note that neither side sought to lead any evidence in trying to explain the state of affairs and there is no explanation forthcoming as to why such material is sought to be withheld from both the sides. The case of the petitioner is that the contesting respondents do not possess valid driving licences whereas it is the case of the contesting respondents that they did possess valid licences but there have been certain mistakes. Primarily, on behalf of the petitioners, the Circular dated 31.08.2000 was sought to be put into service, which shows the requirements at the time of selection. Further, it is also contended that even if any such direction is given to appoint them afresh, the same can be considered only as and when vacancy arises and not otherwise. Basically, this is not a case where any award is passed with a direction for reinstatement and setting aside the orders of termination. However, it is only the case where the award directs appointment of contesting respondents as driver afresh and that too after taking into consideration the circular dated 31.08.2000. The only indulgence as sought to be shown in favour of the contesting respondents is for enabling them to produce genuine driving licences and not of any such driving licences, which have been found not genuine. In fact, it is pointed out on behalf of the contesting respondents that most of them did possess valid driving licences, but the same were not brought to the notice at appropriate time. Further, they are discharging their duties without any blur against them.

The learned standing counsel appearing on behalf of the petitioner sought to submit that the said Circular dated 31.08.2000 was issued in pursuance of the power as conferred under Regulation 35, which contemplates for issuance of subsidiary instructions. They not only add but also provide areas which have not been provided for under

the Regulations. However, it is not necessary to go into the correctness of such circular and the competency in issuance thereof. It would suffice in the interest of justice to say that having regard to the nature of direction as given in the award, which is purely discretionary one and that too on the facts and circumstances as arisen, no valid ground has been made out on behalf of the petitioners to warrant interference under Article 226 of the Constitution of India. Hence, I do not find any merits in all these Writ Petitions.

The Writ Petitions are, accordingly, dismissed. No costs.

(B.Prakash Rao, J.)

21.03.2005

DRK

Copy to:

1. The Chairman, Industrial Tribunal Cum-Presiding Officer, Labour Court, Ananthapur.
2. Two CCs to the G.P. for Labour, High Court of A.P., High Court buildings, Hyderabad (o.u.t.)
3. Two CD copies.